



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
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San Francisco, CA 94105

MAK < 0 2014

Mr. Greg Jarvis
National Park Service, Denver Service Center
12795 W. Alameda Parkway
Lakewood, CO 80228

Subject: Wilderness Management Plan Draft Environmental Impact Statement (CEQ # 20140005)

Dear Mr. Jarvis:

The U.S. Environmental Protection Agency is providing comments on the Draft Environmental Impact Statement (DEIS) for the Wilderness Management Plan for the Jimbilnan, Pinto Valley, Black Canyon, Eldorado, Ireteba Peaks, Nellis Wash, Spirit Mountain, and Bridge Canyon Wilderness Areas. Our comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Based on our review of the DEIS, we have rated the preferred alternative as Lack of Objections (LO-1, see the enclosed "Summary of EPA Rating Definitions"). While we are supportive of the proposed alternative and commend the Park Service for including road and mine restoration elements, we request the following additional information be included in the FEIS to clarify the applicability of Clean Water Act Section 404 and storm water permitting requirements.

Alternatives

In a discussion of the framework for management and use of the wilderness areas, the DEIS states "portions of roads on NPS lands would be closed (e.g. parts of Approved Road 21) and the land rehabilitated and restored" (page 41). The proposed alternative, however, only describes road closures, and does not mention restoration. While the document states that Approved Road 21 would be restored, the potential for restoration of Approved Road 18 is unclear. Page 41 also states "another high priority would be restoring the land affected by old road cuts along the western edge of Approved Road 30 along the Nellis Wash Wilderness," but the proposed alternative does not include this restoration or show the location described. While the DEIS does discuss the restoration of the old mine in Pinto Valley (page 76), provided the mine is not historically significant, it does not describe the location of the mine or identify the location in a map.

The proposed alternative would also convert existing and former roads to trails. The DEIS states, "the old road from milepost 18.2 to the head of Boulder Wash would be made smaller to trail width, with the rest of the area restored to native vegetation" (page 75). Figure 6 shows this road near or through Cottonwood Springs and directly over a thin blue line, which is not identified in the legend, but appears

to indicate a wash or stream. Pinto Valley Road and apparently Approved Road 13¹ would be converted to trails, but the DEIS does not explain whether these road will be partially restored and narrowed to form a trail or simply blocked to motor vehicle traffic.

In addition, the DEIS states that new routes or trails would be created as part of the proposed alternative. While the DEIS mentions the placement of cairns to mark new trails, it does not state whether trails are created through active management of the landscape, such as land clearing or grading, or created over time by hikers. Identifying this information in the FEIS, in addition to clarifying if additional NEPA analysis will be required and timeframe for that process, would better disclose to decisionmakers the scope of potential future actions.

Recommendations for the FEIS:

- Describe and map all roads that would be closed, as part of this action, and differentiate these from roads closed in earlier actions;
- In the description and figures for the proposed alternative, differentiate roads that will be closed and converted to designated routes (trails) from roads to be restored.
- For roads that would be converted to trails, describe whether the roads will be narrowed or left in placed and blocked from motor vehicles.
- Show other areas (non-roads) to be restored in locations maps, such as old road cuts along the western edge of Approved Road 30 and the old mine site in Pinto Valley.
- Label designated routes in Figure 6 consistent with the names of proposed designated routes in Table 4.
- Describe the steps involved and environmental impacts from creating new trails where no road currently exists.
- Identify if future NEPA analysis will be required for specific planned road and trail projects and provide an estimated schedule for any future analysis.

Water Quality

Clean Water Act Section 404

While we commend the Park Service for including restoration in the proposed alternative, it may require a permit from the U.S. Army Corps of Engineers if restoration is occurring within Waters of the United States. If a permit is required, the work may be eligible for a Nationwide Permit², which can substantially simplify the approval process compared to an individual permit. The Los Angeles District of the Army Corps may have added regional conditions to the requirements of specific Nationwide Permit.

The Park Service should coordinate with the Army Corps to determine whether the proposed project requires a Section 404 permit under the Clean Water Act. Section 404 regulates the discharge of dredged or fill material into Waters of the United States, including wetlands and other special aquatic sites. The DEIS states that no water bodies are within the wilderness areas and no actions are being proposed that would increase the potential for water pollution (page 20), but that does not appear to be consistent with

¹ We concluded that Approved Road 13 would be converted into a trail, because the text of the DEIS (page) and Figure 6 state that the road will be closed, and Table 4 lists "Lower Grapevine Canyon (old Approved Road 13) as a proposed designated route, or trail.

² See the Army Corps of Engineers website at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/NationwidePermits.aspx>.

the description of the proposed alternative. By restoring roads, converting roads into trails, and creating new trails in desert washes, the proposed alternative may create water pollution. Because the Colorado River and Lake Mead are interstate waters, they are also Waters of the United States. Due to the close proximity of these waters, ephemeral washes and streams of the wilderness areas may be jurisdictional waters under the Clean Water Act. Therefore, the planned restoration and trail creation of the proposed alternative could fill Waters of the United States.

Recommendations for the FEIS:

- Describe the function and location of actual or potential Waters of the United States where the Park Service will conduct restoration.
- Coordinate with the Army Corps to determine the need for a Section 404 permit for restoration of roads, conversion of roads to trails and creation of new trails
- Discuss the potential for activities described in the DEIS to be regulated under Section 404 of the Clean Water Act.

Stormwater

As previously noted, the DEIS discusses the restoration of roads and closed mines as an element of the project, as well as the creation of trails. Storm water permitting requirements apply to construction activity, which includes grading, in an area of more than one acre.³ The DEIS does not discuss the applicability of storm water permitting requirements or clarify whether the total amount of land grading during restoration will be less than 1 acre.

Recommendation for the FEIS:

Discuss the applicability of storm water permitting requirements to the proposed alternative.

We appreciate the opportunity to review this DEIS and are available to discuss our comments. When the FEIS is released to the public, please send a copy to this office at the address above (mail code ENF 4-2). If you have any questions, please contact me at 415-972-3521, or contact Tom Kelly, the lead reviewer for this project. Mr. Kelly can be reached at 415-972-3856 or kelly.thomasp@epa.gov.

Sincerely,



TLK

Kathleen Martyn Goforth, Manager
Environmental Review Section

cc: Sendi Kalcic, BLM Las Vegas Field Office
Linda Otero, Fort Mojave Indian Tribe
Sallie Diebolt, Los Angeles District of the Army Corps, Arizona Regulatory Branch

Enclosure: Summary of EPA Rating Definitions

³ See https://ndep.nv.gov/bwpc/storm_cont03.htm for a complete discussion of storm water permitting applicability to construction projects.

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment

